

SENATE BILL NO. 57

INTRODUCED BY R. JOHNSON

BY REQUEST OF THE TRANSITION ADVISORY COMMITTEE ON ELECTRIC UTILITY INDUSTRY
RESTRUCTURING

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE SUNSET OF THE UNIVERSAL SYSTEM
BENEFITS CHARGE RATES BY 2 1/2 YEARS TO THE YEAR 2005; EXEMPTING A UTILITY THAT HAS NOT
FILED A TRANSITION PLAN AS OF JANUARY 1, 2001; AMENDING ~~SECTION~~ SECTIONS 69-8-201 AND
69-8-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 69-8-201, MCA, IS AMENDED TO READ:

"69-8-201. Public utility -- transition to customer choice -- waiver. (1) A public utility shall, except
as provided in this section, adhere to the following deadlines:

(a) ~~On or before July 1, 1998, all~~ All customers with individual loads greater than 1,000 kilowatts
and for loads of the same customer with individual loads at a meter greater than 300 kilowatts that
aggregate to 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier.

(b) Subject to subsection (2), and as soon as is administratively feasible but before July 1, 2002,
all other public utility customers must have the opportunity to choose an electricity supplier.

(2) (a) Except as provided for in subsection (4), the commission may determine that additional time
is necessary for customers identified in subsection (1)(b); however, the implementation of full customer
choice may not be delayed beyond July 1, 2004.

(b) A determination by the commission that additional time is necessary for subsection (1)(b)
customers must be made at least 60 days in advance of the scheduled date and must be based on one
or more of the following considerations:

(i) implementation would not be administratively feasible;

(ii) implementation would materially affect the reliability of the electric system; or

(iii) Montana customers or electricity suppliers would be disadvantaged due to lack of a competitive
electricity supply market.

(3) The commission shall designate the public utility or one or more default suppliers to provide regulated default service for those small customers of a public utility that are not being served by a competitive electricity supplier and those customers who elect to receive service from the default supplier.
~~The transition advisory committee shall review and address the need for continued default supply service and make recommendation to the 57th legislature.~~

(4) Except as provided in 69-5-101, 69-5-102, and 69-5-104 through 69-5-112, ~~and 69-8-402,~~ a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, may:

~~(a) defer compliance with this chapter until a time that the public utility can reasonably implement customer choice in the state of the public utility's primary service territory, except that the public utility shall file a transition plan pursuant to 69-8-202 to provide transition to customer choice on or before July 1, 2002, and must have completed the transition period to customer choice by July 1, 2006; and~~

~~(b) petition the commission to delay the public utility's transition plan filing until July 1, 2004.~~

(5) Upon a request from a public utility with fewer than 50 customers, the commission shall waive compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211, 69-8-402, and this section."

Section 2. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance during the transition period and into the future.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. Except as provided in subsection (7), these universal system benefits charge rates must remain in effect until ~~July 1~~ DECEMBER 31, 2003 2005.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each

1 local utility system customer as provided in this section.

2 (b) Utilities must receive credit toward annual funding requirements for a utility's internal programs
3 or activities that qualify as universal system benefits programs, including those portions of expenditures
4 for the purchase of power that are for the acquisition or support of renewable energy, conservation-related
5 activities, or low-income energy assistance, and for large customers' programs or activities as provided
6 in subsection (7). The department of revenue shall review claimed credits of the utilities and large
7 customers pursuant to 69-8-414.

8 (c) A utility's distribution services provider at which the sale of power for final end use occurs is
9 the utility that receives credit for the universal system benefits programs expenditure.

10 (d) A customer's distribution services provider shall collect universal system benefits funds less
11 any allowable credits.

12 (e) For a utility to receive credit for low-income related expenditures, the activity must have taken
13 place in Montana.

14 (f) If a utility's or a large customer's credit for internal activities does not satisfy the annual
15 funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits
16 fund established in 69-8-412 for any difference.

17 (3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding
18 requirements for universal system benefits programs and low-income energy assistance.

19 (4) A utility's transition plan must describe how the utility proposes to provide for universal system
20 benefits programs, including the methodologies, such as cost-effectiveness and need determination, used
21 to measure the utility's level of contribution to each program.

22 (5) A utility's minimum annual funding requirement for low-income energy and weatherization
23 assistance is established at 17% of the utility's annual universal system benefits funding level and is
24 inclusive within the overall universal system benefits funding level.

25 (a) A utility must receive credit toward the utility's low-income energy assistance annual funding
26 requirement for the utility's internal low-income energy assistance programs or activities.

27 (b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then
28 the utility shall make a payment for any difference to the universal low-income energy assistance fund
29 established in 69-8-412.

30 (6) An individual customer may not bear a disproportionate share of the local utility's funding

1 requirements, and a sliding scale must be implemented to provide a more equitable distribution of program
2 costs.

3 (7) (a) A large customer:

4 (i) shall pay a universal system benefits programs charge with respect to the large customer's
5 qualifying load equal to the lesser of:

6 (A) \$500,000, less the large customer credits provided for in this subsection (7); or

7 (B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour
8 purchases, less large customer credits with respect to that qualifying load provided for in this subsection
9 (7);

10 (ii) must receive credit toward that large customer's universal system benefits charge for internal
11 expenditures and activities that qualify as a universal system benefits programs expenditure, and these
12 internal expenditures must include but not be limited to:

13 (A) expenditures that result in a reduction in the consumption of electrical energy in the large
14 customer's facility; and

15 (B) those portions of expenditures for the purchase of power at retail or wholesale that are for the
16 acquisition or support of renewable energy or conservation-related activities.

17 (b) Large customers making these expenditures must receive a credit against the large customer's
18 universal system benefits charge, except that any of those amounts expended in a calendar year that
19 exceed that large customer's universal system benefits charge for the calendar year must be used as a
20 credit against those charges in future years until the total amount of those expenditures has been credited
21 against that large customer's universal system benefits charges.

22 (8) A public utility shall prepare and submit an annual summary report of the public utility's
23 activities relating to all universal system benefits programs to the commission, the department of revenue,
24 and the transition advisory committee provided for in 69-8-501. A cooperative utility shall prepare and
25 submit annual summary reports of activities to the cooperative utility's respective local governing body,
26 the statewide cooperative utility office, and the transition advisory committee. The statewide cooperative
27 utility office shall prepare and submit an annual summary report of the activities of individual cooperative
28 utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the
29 department of revenue and to the transition advisory committee. The annual report of a public utility or
30 of the statewide cooperative utility office must include but is not limited to:

1 (a) the types of internal utility and customer programs being used to satisfy the provisions of this
2 chapter;

3 (b) the level of funding for those programs relative to the annual funding requirements prescribed
4 in subsection (2); and

5 (c) any payments made to the statewide funds in the event that internal funding was below the
6 prescribed annual funding requirements.

7 (9) A utility or large customer filing for a credit shall develop and maintain appropriate
8 documentation to support the utility's or the large customer's claim for the credit.

9 (10) (a) A large customer claiming credits for a calendar year shall submit an annual summary
10 report of its universal system benefits programs activities and expenditures to the department of revenue
11 and to the large customer's utility. The annual report of a large customer must identify each qualifying
12 project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the
13 department of revenue or the utility is not required, except as provided in subsection (10)(b).

14 (b) If a large customer claims a credit that the department of revenue disallows in whole or in part,
15 the large customer is financially responsible for the disallowance. A large customer and the large
16 customer's utility may mutually agree that credits claimed by the large customer be first approved by the
17 utility. If the utility approves the large customer credit, the utility may be financially responsible for any
18 subsequent disallowance."

19
20 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. (1) IF HOUSE BILL NO. 647 AND [THIS ACT] ARE
21 BOTH PASSED AND APPROVED, THEN:

22 (A) SUBSECTION (1)(A) OF [SECTION 1 OF THIS ACT], AMENDING 69-8-201, MUST READ AS FOLLOWS:

23 "(a) Subject to subsection (6), all customers with individual loads greater than 1,000 kilowatts
24 and for loads of the same customer with individual loads at a meter greater than 300 kilowatts that
25 aggregate to 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier."

26 (B) THERE MUST BE INSERTED IN [SECTION 1 OF THIS ACT] A SUBSECTION (6) THAT READS AS FOLLOWS:

27 "(6) A customer who chose an electricity supplier prior to July 1, 2001, may make an election
28 prior to October 1, 2001, to receive the customer's electricity from the default supplier. A customer who
29 chose an electricity supplier prior to July 1, 2001, and who chooses to receive the customer's electricity
30 from the default supplier pursuant to this subsection is bound by the election and may not again elect to

1 choose an electricity supplier other than the default supplier."

2 (2) IF HOUSE BILL NO. 474 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN SUBSECTION (3) OF
3 [SECTION 1 OF THIS ACT] MUST READ AS FOLLOWS:

4 "(3) The commission shall designate the public utility or one or more default suppliers to provide
5 regulated default service for those small customers of a public utility that are not being served by a
6 competitive supplier and those customers who elect to receive service from the default supplier. A
7 customer who elects to receive service from the default supplier may only use the electricity for
8 consumptive purposes and shall enter into a contract with the default supplier that prohibits the customer
9 from remarketing the electricity."

10 (3) IF HOUSE BILL NO. 640 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN:

11 (A) SUBSECTION (3) OF [SECTION 1 OF THIS ACT] MUST READ AS FOLLOWS:

12 "(3) The commission shall designate the public utility or one or more default suppliers to provide
13 regulated default service for those small customers of a public utility that are not being served by a
14 competitive supplier and those customers who elect to receive service from the default supplier. Except
15 as provided in [section 2(2) of House Bill No. 640], a customer who elects to receive service from the
16 default supplier may only use the electricity for consumptive purposes and shall enter into a contract with
17 the default supplier that prohibits the customer from remarketing the electricity."

18 (B) THERE MUST BE INSERTED INTO [SECTION 1 OF THIS ACT] A SUBSECTION (6) THAT READS AS FOLLOWS:

19 "(6) A customer who chose an electricity supplier prior to July 1, 2001, may make an election
20 prior to October 1, 2001, to receive electricity from the default supplier."

21 (C) SUBSECTION (1)(A) OF [SECTION 1 OF THIS ACT] MUST READ AS FOLLOWS:

22 "(a) Subject to subsection (6), all customers with individual loads greater than 1,000 kilowatts
23 and for loads of the same customer with individual loads at a meter greater than 300 kilowatts that
24 aggregate to 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier."

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26 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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